

**The Internal Revenue Service Needs to
Improve Compliance with Legal and Internal
Guidelines When Taking Taxpayers' Property
for Unpaid Taxes**

September 1999

Reference Number: 199910072



DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

September 27, 1999

MEMORANDUM FOR COMMISSIONER ROSSOTTI

A handwritten signature in cursive script that reads "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – The Internal Revenue Service Needs to
Improve Compliance with Legal and Internal Guidelines When
Taking Taxpayers' Property for Unpaid Taxes

This report presents the results of our review to determine if seizures conducted by the Internal Revenue Service (IRS) comply with the legal provisions in 26 U.S.C. § 6331 through § 6344 (1986) and the IRS' own internal seizure guidelines.

In summary, we found that while the IRS followed legal and internal guidelines in 64 percent of the seizures conducted, improved compliance is needed to ensure that all guidelines are consistently followed.

We recommended that the IRS use comprehensive seizure checklists that include legal and internal guidelines to help ensure that employees follow the applicable procedures when conducting seizures. We also recommended that the IRS request an opinion from the IRS Office of Chief Counsel on those seizures that did not follow legal guidelines to determine if the IRS should make restitution to those taxpayers.

IRS management agreed to the recommendations in this report and is implementing corrective actions. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have any questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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Executive Summary

The collection of unpaid taxes by the Internal Revenue Service (IRS) generally begins with letters to the taxpayer, followed by telephone calls and personal contacts by an IRS employee. If these efforts have all been taken and the taxpayer has not paid, the IRS has the authority to take the taxpayer's property for the payment of taxes. Taking a taxpayer's property for unpaid taxes is commonly referred to as a "seizure." IRS procedures and provisions in 26 U.S.C. § 6331 through § 6344 (1986) are very specific as to how a seizure should be conducted. If seizure procedures are correctly followed, taxpayers' rights and the government's interest are protected.

The IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98) placed particular emphasis on taxpayers' rights and contained several new provisions for conducting seizures (e.g., approval levels specified for seizing business assets, exemption of personal residences from seizures if the tax liability is \$5,000 or less, etc.). RRA 98 also added 26 U.S.C. § 7803(d)(1)(A)(iv) (1986), which requires the Treasury Inspector General for Tax Administration to evaluate the IRS' compliance with procedures in 26 U.S.C. (1986) for seizure of property to collect unpaid taxes. We reviewed all 124 seizures (involving 92 taxpayers) conducted by the IRS during a 6-month period beginning July 22, 1998 (the date RRA 98 became law), for compliance with the 26 U.S.C. (1986) and IRS procedures. Since our objective was to assess compliance with legislative and procedural requirements, we did not determine whether seizure was the appropriate collection action to take in the cases we reviewed.

Results

While the IRS followed legal and internal guidelines in 64 percent of the seizures conducted, improved compliance is needed to ensure that all guidelines are consistently followed. The IRS did not follow all legal and internal guidelines when conducting seizures in 33 of the 92 (36 percent) taxpayer cases reviewed. In seven of the 33 cases, both legal and internal guidelines were not followed. We identified the following issues during our review.

The Internal Revenue Service Needs to Improve Compliance with Legal Seizure Provisions When Conducting Seizures

The legal provisions for conducting seizures are generally contained in 26 U.S.C. § 6331 through § 6344 (1986). Some of these provisions were not followed in 19 of the 92

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(21 percent) cases reviewed. In some of the 19 cases, multiple provisions were not followed. The provisions that were not followed are shown below.

- In seven cases, the taxpayers were not advised of the amount of sales proceeds applied to the tax liability and/or the remaining balance due after the sale of seized property. In one case, the taxpayer was inappropriately provided with the purchaser's name. (26 U.S.C. § 6340(c) (1986))
- In one case, seized property was not sold by public auction or sealed bids. (26 U.S.C. § 6335(e)(2)(A) (1986))
- In five cases, the IRS did not thoroughly investigate the status of the property before seizing, seized property with little or no value, or did not consider alternatives to the seizure. (26 U.S.C. § 6331(j)(1) and (2) (1986))
- In one case, the proceeds of the sale were not applied first to the expenses of the sale and then to the taxpayer's liability. (26 U.S.C. § 6342(a) (1986))
- In four cases, business property was seized without obtaining the required approvals. (26 U.S.C. § 6334(e)(2) (1986))
- In two cases, a notice of seized property was not provided to the taxpayer at the time of seizure. (26 U.S.C. § 6335(a) (1986))
- In one case, a notice warning the taxpayer of enforcement action (i.e., seizure) was not provided on all tax periods before the IRS seized the taxpayer's property. (26 U.S.C. § 6331(d)(1) (1986))

The Internal Revenue Service Needs to Improve Compliance with Internal Seizure Guidelines When Conducting Seizures

The IRS has established procedures for conducting seizures. These procedures are contained in the Internal Revenue Manual (IRM) and in various memoranda issued by IRS officials in the National Office in Washington, DC. However, the IRS did not follow some of its own procedures in 21 of the 92 (23 percent) cases reviewed. In some of the 21 cases, multiple procedures were not followed. The IRM procedures that were not followed include:

- In nine cases, case histories were not documented to indicate that Your Rights as a Taxpayer (Publication 1), which explains the taxpayer's rights, was provided to the taxpayer, as required. (IRM section 5181.21)
- In four cases, taxpayers were not personally warned of pending seizure actions before the IRS seized their property. (IRM section 56(12)1.2(3))

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- In three cases, expenses of the seizures were not added to the taxpayers' tax liabilities when the property was released. (IRM section 56(12)8.13(5))
- In eight cases, other miscellaneous guidelines were not followed (e.g., seized property was not properly protected, minimum bid worksheets were not properly prepared, etc.). (IRM sections 56(12)5.2 and 56(13)5.1, respectively).

On April 13, 1999, the IRS finalized the new Seizure and Sale Handbook as part of its IRM. A Pre-Seizure Checklist is included in the new IRM as Exhibit 5.10.1-2. While this Pre-Seizure Checklist is an excellent tool, it covers only some of the aspects of the legal and internal seizure guidelines that should be followed when conducting seizures. The checklist does not include procedures to follow when conducting the seizure (e.g., providing the taxpayer with the notice of seizure) or actions that should be taken after the seizure (e.g., providing the taxpayer with a record of the sale). Four of the legal provisions we identified that were not followed are not included on the existing Pre-Seizure Checklist. To supplement the existing Pre-Seizure Checklist, the IRS is developing checklists that will include legal and IRM guidelines that must be followed when conducting seizures and actions that must be taken after seizures are conducted.

Adherence to legal and internal procedures when conducting seizures is necessary to ensure that taxpayers' rights are not violated and the government's interest is protected. Failure to adhere to these procedures could result in violations of the law and could also result in the IRS having to return to taxpayers money received from the sale of seized property.

Summary of Recommendations

The IRS should use comprehensive seizure checklists that include pertinent legal and internal guidelines to help ensure that employees follow the applicable procedures when conducting seizures. The IRS should also request an opinion from the IRS Office of Chief Counsel on those seizure cases that did not follow legal guidelines to determine if the IRS should make restitution to those taxpayers.

Management's Response: IRS management agreed to complete the seizure and post-seizure checklists that are being developed and ensure that pertinent legal and IRM requirements are included on the checklists. IRS guidelines will require that the checklists be completed before the seizures are approved by the appropriate officials. The IRS also agreed to review the applicable seizure cases to determine if returning any monies received as a result of the seizures would be the appropriate action to take.

Management's complete response to the draft report is included as Appendix VIII.

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Objective and Scope

The overall objective of this audit was to determine if seizures conducted by the IRS adhere to legal guidelines set forth in 26 U.S.C. § 6331 through § 6344 (1986).

We reviewed all seizures conducted by the IRS during a six-month period beginning July 22, 1998 (enactment date for RRA 98).

The overall objective of this audit was to determine if seizures conducted by the Internal Revenue Service (IRS) adhere to legal guidelines set forth in 26 U.S.C. § 6331 through § 6344 (1986).

While the main focus of our review was on the IRS' compliance with the 26 U.S.C. (1986) procedures regarding seizures, we also evaluated adherence to internal procedures established by the IRS for conducting seizures. These procedures are included in various sections of Part V of the IRS' Internal Revenue Manual (IRM).

We reviewed all seizures conducted by the IRS during a six-month period beginning July 22, 1998 (enactment date for the IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998), referred to as RRA 98). During this period, the IRS conducted 124 seizures of property from 92 taxpayers in 28 of the 33 IRS offices. See Appendix V for a listing of the 28 offices.

In reviewing these seizures, we obtained files maintained by the IRS offices (commonly referred to as districts), including files that contained notes of the employees who conducted the seizures and related documents to support actions taken on the cases. We also discussed the exception cases with district management and National Office management.

We conducted our audit between January 1999 and May 1999. We did not determine whether the seizure was the appropriate collection action to take in the cases we reviewed. Due to resource constraints, we did not determine why the IRS did not follow all internal seizure guidelines when conducting seizures. Also, for those cases in which legal provisions were not followed, we did not determine the reasons for this and referred those cases with potential violations of § 1203 of RRA 98, Pub. L. No. 105-206, 112 Stat. 720 (1998), to the

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Treasury Inspector General for Tax Administration (TIGTA) Office of Investigations for whatever action it deems appropriate. For the remaining cases in which legal guidelines were not followed, we plan to refer them to the IRS Office of Chief Counsel to determine if the taxpayers' rights were potentially violated. We performed the remainder of this audit in accordance with *Government Auditing Standards*.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are shown in Appendix II.

Background

RRA 98 requires the TIGTA to evaluate the IRS' compliance with required procedures in 26 U.S.C. § 6331 through § 6344 (1986) for seizure of property for collection of taxes.

On July 22, 1998, the President signed RRA 98 into law. RRA 98 added 26 U.S.C. § 7803(d)(1)(A)(iv) (1986), which requires the TIGTA to annually evaluate the IRS' compliance with the required procedures in 26 U.S.C. § 6331 through § 6344 (1986) for seizure of property for collection of taxes.

The collection of unpaid taxes by the IRS begins with letters to the taxpayer, generally followed by phone calls and personal contacts by an IRS employee. If these actions have all been taken and the taxpayer has not paid, the IRS has the authority to take the taxpayer's property for the payment of taxes. Taking a taxpayer's property for unpaid taxes is commonly referred to as a "seizure." Procedures in 26 U.S.C. § 6331 through § 6344 (1986) and the IRM are very specific as to how a seizure should be conducted. If seizure procedures are correctly followed, taxpayers' rights and the government's interest are protected.

Legal authority to take taxpayers' property

Provisions in 26 U.S.C. § 6331 (1986) give the IRS the authority to seize taxpayers' property for failure to pay taxes.

Provisions in 26 U.S.C. § 6331 (1986) generally authorize the IRS to seize all property or rights to property if a taxpayer neglects or refuses to pay taxes within 10 days after a notice and demand is provided to the taxpayer. An additional notice is to be provided to

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IRS seizure procedures are contained in the IRM.

the taxpayer no less than 30 days before the day of the seizure, warning of possible seizure action if taxes are not paid.

Provisions in 26 U.S.C. § 6334 (1986) exempt certain property from seizure, including a minimum amount from wages, salary, other income, and tools of a trade. Seizure of the taxpayer's principal residence is allowed only with the written approval of a United States district court judge or magistrate. Other sections of 26 U.S.C. (1986) govern the sale of seized property, expenses of seizure and sale, release of seized property, and other seizure-related matters.

IRS seizure procedures

The IRS has developed its own procedures for conducting seizures. These procedures are contained in the IRM. The seizure procedures were contained in various parts of the IRM until the IRS combined the procedures into the Seizure and Sale Handbook that was issued to its Collection Division employees on April 13, 1999.

RRA 98 and 26 U.S.C. (1986)

The RRA 98 placed particular emphasis on taxpayer rights and contained several new provisions for conducting seizures (e.g., approval levels specified for seizing business assets, exemption of personal residences from seizures if tax liability is \$5,000 or less, etc.). Most procedures for conducting seizures are contained in 26 U.S.C. § 6331 through § 6344 (1986). See Appendix VI for a synopsis of these procedures.

Dollars collected and frequency of seizures

Per IRS collection reports, in Fiscal Year (FY) 1998, the Collection Field function (CFf) collected approximately \$3.4 billion in delinquent taxes from taxpayers who had not timely paid. At fiscal year end, approximately 282,000 taxpayers still owed approximately \$16.8 billion in unpaid taxes that the CFf was actively working to collect.

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Seizures have decreased from 10,000 in FY 1997 to 124 in the six-month period following the enactment of RRA 98 on July 22, 1998.

During FY 1997, there were over 10,000 seizures. In FY 1998, the number of seizures dropped to approximately 2,300. During the 6-month period after RRA 98 became law, IRS conducted only 124 seizures (involving 92 taxpayers). We received limited information on the cause for the decrease in seizures from approximately 85 managers and employees in the CFF. Most reasons given related to the provisions in the RRA 98, Pub. L. No. 105-206, 112 Stat. 720 (1998), particularly § 1203, which provides for terminating employment if taxpayers' rights are violated, and the lack of training regarding seizure procedures in light of the new RRA 98 provisions.

Review and approval of seizures

RRA 98 requires IRS supervisors to approve seizure actions, where appropriate. The IRS further requires the approval of the Collection Division Chief prior to seizure.

The RRA 98, Pub. L. No. 105-206, 112 Stat. 758 (1998) § 3421 requires that the seizure of taxpayers' property, where appropriate, be reviewed and approved by a supervisor of the employee who plans to conduct the seizure before the action is taken. This section allows the IRS to determine the approval process for seizures.

IRM section 56(12)1 requires the group manager (the employee's immediate supervisor) to conduct a thorough review of the case to ensure that the seizure action is warranted. The manager will consider such factors as the taxpayer's ability to pay, the amount of equity in assets, and the taxpayer's efforts to resolve the tax liability. The manager will ensure that necessary actions prior to seizure have been taken. A memorandum issued to all Collection Field employees in December 1997 further requires the approval of the Collection Division Chief prior to seizure. The Collection Division Chief in each district office is the third level of management above employees who conduct seizures.

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Results

The IRS did not follow legal and internal seizure guidelines in 36 percent of the cases reviewed.

While the IRS followed legal and internal guidelines in 64 percent of the seizures conducted, improved compliance is needed to ensure that all guidelines are consistently followed. The IRS did not follow some of the legal and internal guidelines when conducting seizures in 33 of the 92 (36 percent) taxpayer seizure cases reviewed. In 7 of the 33 cases, both legal and internal guidelines were not followed.

Failure of the IRS to follow the legal and internal guidelines could result in abuses of taxpayers' rights and failure to protect the government's interest. Failure to follow the procedures in 26 U.S.C. (1986) could also result in the IRS having to make restitution to taxpayers for monies collected as a result of improper seizures.

See Appendix VII for a statistical snapshot of the 92 taxpayer seizure cases reviewed.

The Internal Revenue Service Needs to Improve Compliance with Legal Seizure Provisions When Conducting Seizures

The IRS did not follow legal seizure provisions in 21 percent of the 92 taxpayer seizure cases reviewed.

The legal requirements for conducting seizures are generally contained in 26 U.S.C. § 6331 through § 6344 (1986). The IRS did not comply with these requirements in 19 of the 92 (21 percent) taxpayer cases reviewed. Multiple legal provisions were not followed in some of the 19 cases. Details of the provisions that were not followed are discussed below.

In seven cases, the IRS did not advise the taxpayer of the amount of the sale proceeds applied to the tax liability and/or the remaining balance due.

- **In seven cases, the taxpayers were not advised of the amount of the sale proceeds applied to their accounts and/or the remaining balance due. In addition, in one case the IRS sent the taxpayer information that included the name of the purchaser.**

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RRA 98 added 26 U.S.C. § 6340(c) (1986), which requires the IRS to furnish certain items to the taxpayer after the sale of the seized property. These items include the amount of sale proceeds applied to the tax liability and the amount of the remaining tax liability. This section also forbids the IRS from providing the taxpayer with the name of the person who purchased the seized property.

In one case, the IRS sold seized property through a method other than public auction or sealed bids.

- **In one case, the IRS allowed a third party to liquidate the seized asset using a means other than a public auction or sealed bids.**

Provisions in 26 U.S.C. § 6335(e)(2)(A) (1986) require that the sale of seized property be conducted by public auction or by public sale under sealed bids.

In five cases, the IRS did not perform a thorough investigation of the status of the taxpayer's property before seizure.

- **In five cases, the IRS did not perform a thorough investigation of the status of the taxpayer's property before conducting the seizure.**

RRA 98 added 26 U.S.C. § 6331(j)(1) (1986), which requires the IRS to perform a thorough investigation of the status of the taxpayer's property before seizure.

RRA 98 also added 26 U.S.C. § 6331(j)(2) (1986), which requires, in part, that the investigation of the status of the property include a determination that the equity in such property is sufficient to yield net proceeds from the sale of the seized property to apply to the liability, and a thorough consideration of alternative collection methods before seizing the property.

- ♦ In two of the five cases, the IRS did not determine equity (ownership) in the property before seizing.

In two of the five cases, the IRS did not determine equity (ownership) in the property before seizing.

In one of the two cases, the taxpayer advised the IRS that he had transferred the titles (ownership) of his vehicles to another person. The IRS performed research and determined that ownership had not been transferred. The seizure was not performed until three months after the

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research. On the day after the seizure, the seizing official investigated the ownership of the vehicles and determined that the ownership had actually been transferred. The vehicles were subsequently returned to the taxpayer.

In the other case, the IRS was aware of a lien on the taxpayer's vehicle but chose not to investigate the validity of the lien due to prior actions by the taxpayer. The IRS' research subsequent to the seizure showed that the lien was valid. The seized vehicle was released to the taxpayer.

- ◆ In two of the five cases, the IRS seized property that had little or no value.

In two cases, the IRS seized property that had little or no value. In one of the cases, the seized property was sold for a net loss after the expenses of the seizure and sale were paid.

In one of the two cases, the IRS seized property that resulted in a loss from the sale of the property. In this case, the IRS seized a vehicle that it later determined would not start. The sale of the vehicle resulted in a net loss after the expenses of the seizure and sale were paid.

In the other case, the IRS seized the taxpayer's business equipment. According to the employee who conducted the seizure, some of the equipment was not in working order. The minimum bid price for the seized property was very low. The property was later released to the taxpayer, after the IRS had incurred expenses that equaled one-third of the minimum bid price.

- ◆ In one of the five cases, the IRS did not consider alternatives to the seizure action.

In one case, the IRS did not consider all collection methods before seizing the taxpayer's property.

In this case, the IRS seized property that, according to the seizing officer, would need extensive repairs to be livable. There were no bidders at the sale and the property was released to the taxpayer. Prior to this seizure, the IRS did not explore other collection methods, such as an installment agreement or offer in compromise.

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In one case, the IRS did not apply the proceeds first to the seizure and sale expenses.

- **In one case, the proceeds of the sale were not correctly applied first to the expenses of the sale and then to the taxpayer's liability.**

Provisions in 26 U.S.C. § 6342(a) (1986) require the IRS to apply the proceeds of the sale first to the expenses of the seizure and sale and then to the liability. In this case, the IRS applied the proceeds of the sale to the taxpayer's liability, but did not apply any proceeds to the expenses relating to the seizure and sale.

In four cases, the IRS did not obtain the proper approval on the seizure of business assets.

- **In four cases, proper approval was not obtained for seizure of business assets.**

RRA 98 added 26 U.S.C. § 6334(e)(2) (1986), which allows the seizure of tangible personal property (vehicle, equipment, etc.) or real property (land, building, etc.) that is used in the business of an individual, if personal approval is obtained from the head or assistant head of the district conducting the seizure. These officials are referred to as district directors or assistant district directors.

In these four cases, vehicles that were used in the taxpayers' businesses were seized without the required approval. In one case, the IRS disagreed that the vehicle was a business asset and has requested advice from the IRS Office of Chief Counsel as to whether the seized property was actually a business asset.

In two cases, the IRS did not provide the taxpayer with a notice of seizure that lists the property seized.

- **In two cases, a notice of seizure was not provided to the taxpayer.**

Provisions in 26 U.S.C. § 6335(a) (1986) require the IRS to provide the taxpayer with written notice of the seizure as soon as practicable after the seizure of the property. The notice should specify the sum demanded and should contain, for personal property, a listing of the property seized and, in the case of real property, a description of the property seized.

The IRS uses a Notice of Seizure (Form 2433) for this purpose. This document is the taxpayer's

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receipt for the seized property and is usually the only itemized listing of the seized property. There was no documentation in the case files indicating that the taxpayer was provided with the notice of seizure in these two cases.

- **In one case, a notice warning the taxpayer of seizure action was not given to the taxpayer.**

In one case, the IRS did not provide the taxpayer with a notice warning of seizure action for all of the tax periods.

Provisions in 26 U.S.C. § 6331(d) (1986) generally require that the IRS provide taxpayers with a written notice warning them of seizure no less than 30 days before the date of the seizure, for each tax period with unpaid tax. The IRS normally achieves this requirement by issuing a computer-generated notice (referred to as a Computer Paragraph (CP) 504 notice). This notice is the last in a series of notices issued by the IRS when taxpayers have a balance due. If a CP 504 has never been issued for a delinquent tax period, the IRS can issue a Letter 1058, which contains similar language and meets the notice requirement in 26 U.S.C. (1986).

In this case, the taxpayer was not provided with a notice warning of enforcement action for two of the four tax periods. The balance due for these 2 tax periods was approximately 13 percent of the total tax liability.

The Internal Revenue Service Needs to Improve Compliance with Internal Seizure Guidelines When Conducting Seizures

In 23 percent of the cases reviewed, the IRS did not follow internal guidelines when conducting seizures.

The IRS has established procedures for conducting seizures. These procedures are contained in the IRM and in various memoranda issued by IRS officials in the National Office in Washington, DC. We determined that the IRS did not follow some of its own procedures in 21 of the 92 (23 percent) taxpayer cases reviewed. Multiple internal procedures were not followed in some of the 21 cases.

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In nine cases, the case history did not indicate that taxpayers were provided with the required IRS publication that explains the taxpayer's rights.

- **In nine cases, the case history did not indicate that Your Rights as a Taxpayer (Publication 1) was provided to the taxpayer.**

IRM section 5181.21 requires Collection employees to provide taxpayers with a Publication 1, which explains the taxpayer's rights, during the initial contact with the taxpayer. Collection employees are also required to document in the case history that the publication was provided to the taxpayer. Providing the Publication 1 helps ensure that taxpayers know their rights and that they understand the IRS procedures regarding the seizure of their property.

In four cases, the IRS did not warn taxpayers that the next action taken would be a seizure of their property.

- **In four cases, taxpayers were not personally warned of seizure action.**

IRM section 56(12)1.2(3) requires the seizing official to personally contact taxpayers to advise them that seizure is the next action planned and to give the taxpayers the opportunity to resolve the tax liability voluntarily. Warning taxpayers of seizure action gives them one additional opportunity to resolve their tax liability before having their property taken by the IRS.

In three cases, the expenses of the seizure were not added to the taxpayer's tax account after the seizure was released.

- **In three cases, the expenses of the seizure were not added to the taxpayer's tax account after the seizure was released.**

IRM section 56(12)8.13(5) requires the IRS to charge the taxpayer with the expenses of the seizure, even if the property is released to the taxpayer and not sold. The IRM further states that the taxpayer may pay the expenses directly to the vendor. There are no indications in the three case files that the taxpayers paid the expenses for the released property.

- **In eight cases, other miscellaneous guidelines were not followed. For example:**

- ◆ In two cases, a minimum bid worksheet was not properly prepared. The minimum bid worksheet

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establishes the lowest price for which the IRS is willing to sell the seized property. (IRM 56(13)5.1).

- ◆ In three cases, seized property was not properly protected, resulting in the loss of some of the seized items in one of the cases. (IRM 56(12)5.2 (b))
- ◆ In one case, the seizure of a taxpayer's vehicles resulted in the taxpayer not having a means to get to work. The vehicles were released after the taxpayer met certain conditions. (IRM 518(13).33)
- ◆ In two cases, seized property was not disposed of timely. At the time of our review, the seized property, in one case, had not been sold for seven months after the seizure. The IRM states that, ordinarily, a notice of sale should be issued within 30 days of the seizure. (IRM 56(13) 7.1)

The IRS has included a Pre-Seizure Checklist in its new seizure handbook; however, the checklist does not include four of the legal guidelines that were not followed in the cases we reviewed.

On April 13, 1999, the IRS issued the new IRM Seizure and Sale Handbook to its employees. The new IRM requires the use of a Pre-Seizure Checklist that is included as Exhibit 5.10.1-2 in the new IRM. While the existing Pre-Seizure Checklist is an excellent tool, it covers only some of the aspects of the legal and internal seizure procedures that should be followed when conducting seizures. The existing Pre-Seizure Checklist does not include four of the legal provisions that were not followed in the cases we reviewed.

The checklist does not include procedures to follow when conducting the seizure (e.g., providing the taxpayer with the notice of seizure) or actions that should be taken after the seizure (e.g., providing the taxpayer with a record of the sale). To supplement the existing Pre-Seizure Checklist, the IRS is developing checklists that will include legal and IRM guidelines that must be followed when conducting seizures and actions that must be taken after seizures are conducted.

Adherence to the legal and internal procedures when conducting seizures is necessary to ensure that taxpayers' rights are not violated and the government's

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interest is protected. Failure to adhere to these procedures could result in violations of the law and in the IRS having to return any seizure and sale proceeds to taxpayers.

Recommendations

We recommend that Collection management:

1. Complete the seizure and post-seizure checklists that are being developed and ensure that pertinent 26 U.S.C. § 6331 through § 6344 (1986) and IRM seizure requirements are included.

Management's Response: Collection management will complete the development of checklists that will include legal and internal guidelines that must be followed during the seizures and actions that must be taken after seizures are made.

2. Use memoranda, training sessions, group meetings, etc., to emphasize that IRS employees use the appropriate checklists for all seizures conducted.

Management's Response: Collection management will take whatever steps are necessary to eliminate mistakes in conducting seizures. They have increased their emphasis on proper case documentation and believe the use of checklists will help resolve the documentation problems identified. Training will address the use of the pre-seizure, seizure and post-seizure checklists.

3. Ensure that Collection management and other appropriate management officials verify that all applicable items on the Pre-Seizure Checklist are completed prior to approving the seizure and that all applicable items on the seizure and post-seizure checklists under development are completed.

Management's Response: The seizure and sale handbook will incorporate the seizure and post-seizure checklists into mandated procedural guidelines. The guidelines will state that seizures will not be approved

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and seizure cases will not be closed until the appropriate checklists are completed and reviewed by the appropriate official.

4. Determine from a legal standpoint what steps should be taken regarding any money received as a direct result of conducting seizures without following the provisions in 26 U.S.C. § 6331 through § 6344 (1986).

Management's Response: Collection officials and personnel from other IRS functions will conduct a complete review of the applicable seizure cases to determine if returning any money received, as a result of the seizures, would be the appropriate action to take.

Conclusion

The IRS needs to improve compliance with legal and internal guidelines when conducting seizures. Adherence to these guidelines will help ensure that taxpayers' rights and the government's interest are protected.

**The Internal Revenue Service Needs to Improve Compliance with Legal
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Appendix I

Detailed Objective, Scope, and Methodology

The objective of this review was to determine if seizures conducted by the Internal Revenue Service (IRS) adhere to legal guidelines set forth in 26 U.S.C. § 6331 through § 6344 (1986) and comply with the IRS' own seizure procedures. We did not include § 6330 of 26 U.S.C. (1986), which requires that the taxpayer receive notice and opportunity for a hearing prior to seizure, because the seizures reviewed were conducted prior to the effective date of this newly added section of 26 U.S.C. (1986).

We performed the following audit tests to accomplish our objective:

- A. Identified, through discussions with appropriate National Office Collection Division employees, current seizure procedures (Internal Revenue Manual (IRM), local procedures, national office memoranda, etc.), including seizure procedures that address changes made by the IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98).
- B. Obtained from the IRS district offices a listing of all seizures conducted nationwide during a six-month period beginning July 22, 1998 (date of RRA 98 enactment). Compared the listings of seizures with Collection Division reports to determine whether the volume of seizures reported was correct.
- C. Secured, from the listings obtained in step B, all related seizure documentation for the 124 seizures conducted for 92 taxpayers in the 28 IRS offices that conducted seizures.
- D. Reviewed the cases to determine if the seizures were conducted in compliance with the legal (26 U.S.C. (1986)) and internal (IRM) guidelines.
- E. Referred, when necessary, potential legal and procedural violations to the appropriate office for investigation.

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Appendix II

Major Contributors to This Report

Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)
M. Susan Boehmer, Director
Thomas H. Black, Acting Director
Deborah H. Glover, Audit Manager
Alan D. Lund, Acting Audit Manager
Edmond G. Watt, Audit Manager
Gary L. Young, Audit Manager
Philip D. Adams, Senior Auditor
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John L. Hawkins, Senior Auditor
Barry G. Huff, Senior Auditor
Larry A. Mart, Senior Auditor
Abraham B. Millado, Senior Auditor
Joanola Rose, Senior Auditor
D. Hal Schultz, Senior Auditor
Dale E. Schulz, Senior Auditor
Jeffrey E. Williams, Senior Auditor
Julia M. Collins, Auditor
Roy J. Evans, Auditor
Tracy K. Harper, Auditor
Edith R. Lemire, Auditor
Frank I. Maletta, Auditor
Britt M. Molitoris, Auditor
Tina M. Parmer, Auditor
Dan B. Peterson, Auditor
Susan A. Price, Auditor

**The Internal Revenue Service Needs to Improve Compliance with Legal
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Appendix III

Report Distribution List

Deputy Commissioner Operations C:DO
Chief Operations Officer OP
Assistant Commissioner (Collection) OP:CO
Assistant Commissioner (Program Evaluation and Risk Analysis) M:OP
National Director for Legislative Affairs CL:LA
Office of Management Controls M:CFO:A:M
Audit Liaison:
 Assistant Commissioner (Collection) OP:CO

**The Internal Revenue Service Needs to Improve Compliance with Legal
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Appendix IV

Outcome Measures

This appendix presents detailed information on the measurable impact that our recommended corrective actions will have on tax administration. These benefits will be incorporated into our Semiannual Report to the Congress in Appendix I.

Finding and recommendation:

The Internal Revenue Service (IRS) Needs to Improve Compliance with Legal and Internal Guidelines When Conducting Seizures. The IRS did not follow all legal and internal seizure guidelines in 33 of the 92 (36 percent) taxpayer cases reviewed. In seven cases, both legal and internal seizure guidelines were not followed.

The IRS did not follow all legal seizure guidelines in 19 of the 92 (21 percent) taxpayer cases reviewed. These legal guidelines are contained in 26 U.S.C. § 6331 through § 6344 (1986). The legal guidelines that were not followed include (1) not advising taxpayers of required information regarding the seizure and sale of their seized property, (2) selling seized property through an improper means, (3) not thoroughly investigating the status of the taxpayer's property before seizure, (4) not applying the proceeds of the sale first to the expenses of the sale, (5) seizing property without the proper approvals, and (6) not providing taxpayers with the required notices of seizure and notices warning of pending seizure action. (Pages 5-9)

The IRS did not follow some of its own internal seizure guidelines in 21 of the 92 (23 percent) cases reviewed. These internal guidelines are contained in the IRS' Internal Revenue Manual (IRM) and in various memoranda issued by IRS officials. The internal guidelines that were not followed include (1) not documenting that the required taxpayer rights publication was provided to taxpayers prior to seizure, (2) not personally warning taxpayers of pending seizure action, (3) not adding the expenses of the sale to the taxpayer's tax liability, and (4) not adhering to other IRM procedures. (Pages 9-11)

The IRS should use comprehensive seizure checklists that include pertinent legal and internal guidelines to help ensure that employees follow the applicable procedures when conducting seizures. The IRS should also determine what steps should be taken regarding any money received as a direct result of conducting seizures without following the legal provisions in 26 U.S.C. § 6331 through § 6344 (1986).

Type of Outcome Measure: **Taxpayer Rights and Entitlements**

We determined that the IRS potentially violated taxpayers' rights in 32 of the 33 cases where legal and internal seizure guidelines were not followed. In 1 of the 33 cases, not following the guidelines did not result in a potential taxpayer rights issue.

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Value of the Benefit:

We determined that the rights of 32 taxpayers may have been violated because the IRS did not follow all legal and internal seizure guidelines. As a result, the IRS may have to make restitution to these taxpayers for money received as a result of improper seizures.

Methodology Used to Measure the Reported Benefit:

We reviewed all of the 124 seizures, involving 92 taxpayers, conducted during a 6-month period following the enactment of the IRS Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) to determine if the IRS complied with legal and internal seizure guidelines. In 32 cases, the IRS did not follow all applicable legal and internal seizure guidelines, which could result in violations of taxpayers' rights.

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Appendix V

Listing of District Offices Reviewed

<u>Region</u>	<u>District</u>
Northeast	Brooklyn
	Manhattan
	Michigan
	New England
	New Jersey
	Ohio
	Pennsylvania
	Upstate New York
Southeast	Georgia
	Gulf Coast
	Indiana
	Kentucky-Tennessee
	North Florida
	North-South Carolina
	South Florida
Midstates	Virginia-West Virginia
	Houston
	Illinois
	Kansas-Missouri
	Midwest
	North Texas
	South Texas
Western	Los Angeles
	Northern California
	Pacific-Northwest
	Rocky Mountain
	Southern California
	Southwest

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Appendix VI

**Synopsis of 26 U.S.C. (1986) Sections Containing Procedures
for Conducting Seizures**

Note: Changes made by the Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98) to sections of 26 U.S.C. (1986) are in bold. For the purposes of our review, “levy” and “seizure” are used interchangeably.

26 U.S.C. § 6331 (1986) generally authorizes the Internal Revenue Service (IRS) to levy (seize) a delinquent taxpayer's property after providing the taxpayer a 30-day notice of intent to levy. **This section also prohibits levy (1) during a pending suit for the refund of any payment of a divisible tax, (2) before a thorough investigation of the status of any property subject to levy, or (3) while either an offer in compromise or an installment agreement is being evaluated and 30 days thereafter, including appeals.**

26 U.S.C. § 6332 (1986) requires anyone in possession of property subject to levy to surrender such property when a levy is conducted. It contains sanctions against anyone who does not surrender such property upon demand.

26 U.S.C. § 6333 (1986) requires anyone with control of books or records containing evidence or statements relating to property subject to levy to exhibit such books or records upon demand to the IRS.

26 U.S.C. § 6334 (1986) lists property exempt from levy. Exempt from levy is **\$6,250** in fuel, provisions, furniture, and personal effects, and **\$3,125** in books and tools necessary for business purposes. **Also exempt from levy is generally any real property of the taxpayer that is used as a residence by either the taxpayer or any other individual, if the amount owed is \$5,000 or less. Seizure of the taxpayer's principal residence is generally allowed only with approval of a United States district court judge or magistrate. Property used in the taxpayer's business is exempt except with written approval of the District Director or Assistant District Director, and may be approved for seizure only if other assets are not sufficient to pay the liability and expenses of the seizure.**

26 U.S.C. § 6335 (1986) contains procedures for the sale of seized property. Notice of sale must be given to the taxpayer. The property must be advertised in the county newspaper and/or posted at the nearest post office and posted in at least two other public places. The notices shall specify the property to be sold, and the time, place, manner, and conditions of sale. The property must be sold not less than 10 days or more than 40 days from the time of giving public notice. **Finally, this section expressly prohibits selling seized property for less than the minimum bid.**

26 U.S.C. § 6336 (1986) contains procedures for the accelerated disposition of perishable property. This is property such as fresh food products or any property that requires

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prohibitive expenses to maintain during the normal sale time period. The property may either be sold as soon as practicable, returned to the taxpayer in exchange for payment of a bond, or returned to the taxpayer for payment of the appraised value.

26 U.S.C. § 6337 (1986) allows the owner of seized property to redeem the property prior to the sale by paying the amount due plus the expenses of the seizure. It also allows the owner to redeem real property within 180 days of the sale by paying the successful bidder the purchase price plus 20 percent per annum interest.

26 U.S.C. § 6338 (1986) requires the IRS to give purchasers of seized property a certificate of sale upon full payment of the purchase price. This includes issuing a deed to real property after expiration of the 180-day period in 26 U.S.C. § 6337 (1986). The deed is exchanged for the certificate of sale issued upon full payment.

26 U.S.C. § 6339 (1986) gives the legal effect of the certificate of sale for personal property and the transfer deed for real property.

26 U.S.C. § 6340 (1986) requires each IRS district office to keep a record of **all** sales of seized property (***RRA 98 added personal property seizures to this requirement***). This record includes the tax for which such sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making such sale, the amount of expenses, the names of the purchasers, and the date of the deed or certificate of sale of personal property. The taxpayer will be furnished (1) the information above except the purchasers' names, (2) the amount from such sale applied to the taxpayer's liability, and (3) the remaining balance of such liability.

26 U.S.C. § 6341 (1986) states "The Secretary shall determine the expenses to be allowed in all cases of levy and sale."

26 U.S.C. § 6342 (1986) provides for the application of proceeds of levy. Proceeds are first applied to the expenses of the levy and sale proceedings. Any remainder is applied to the taxpayer's liability. Any amount remaining after paying the liability will be credited or refunded to the taxpayer.

26 U.S.C. § 6343 (1986) outlines various conditions under which a levy may be released and property returned to the taxpayer. These conditions include full payment of the liability, determination of a wrongful levy, financial hardship, etc. This section also provides, with the consent of the taxpayer or the **National Taxpayer Advocate** (*RRA 98 changed this from "Taxpayer Advocate"*), the return of seized property when it would be in the best interests of the taxpayer (as determined by the National Taxpayer Advocate) and the United States. Finally, when a taxpayer's account is deemed uncollectible, any outstanding seizure must be released.

26 U.S.C. § 6344 (1986) contains several cross-references for subchapter D of 26 U.S.C (1986).

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Appendix VII

Statistical Snapshot of Seizure Cases

Listed below are several key attributes of the 92 taxpayer seizure cases (124 separate seizures) that we reviewed. These attributes depict the seizure process, from the amount of the liability through the disposition of the case. We are presenting this information to provide a perspective on the review results.

- The average liability owed by the taxpayer at the time of each seizure was \$475,704. The following table indicates the range of liabilities owed.

Range of Tax Liability	Number of Taxpayers
< \$25,000	13
\$25,000 - \$100,000	38
\$100,000 - \$1 million	35
\$1 million - \$10 million	5
>\$10 million	1

- The following table indicates the types of property seized and the volume per type.

Property Type	Volume of Seizures per Type
Real Property (land, buildings, etc.)	60
Vehicles	22
Other Personal Property (gold coins, boats, etc.)	17
Machinery	3
Other Business Assets	7
Miscellaneous (stock, cash register contents, etc.)	15

- Thirty-three (27 percent) of the 124 seizures resulted in a sale of the assets seized. Property seized in 49 (40 percent) of the seizures was released to the taxpayer. Property seized in 11 (9 percent) of the seizures was redeemed for the full tax liability and released to the taxpayer. In the remaining 31 cases, the property was disposed of using other means or the seizure was still open at the time of our review.

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- The average property value of the seized property was \$78,699. For the 99 seizures where the minimum bid was calculated, the average minimum bid was \$37,489.
- The average net proceeds from the sale of 33 seized assets was \$22,781.

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Appendix VIII

Management's Response to the Draft Report



COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF TREASURY
INSPECTOR GENERAL
RECEIVED

September 15, 1999

SEP 16 AM 10:10

FOR TAX ADMINISTRATION

MEMORANDUM FOR DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM:

Charles O. Rossotti
Commissioner of Internal Revenue

COR

SUBJECT:

Response to Draft Audit Report - The Internal Revenue Service
Needs to Improve Compliance With Legal and Internal
Guidelines When Taking Taxpayers' Property for Unpaid
Taxes—Urmem 8/20/98

Thank you for the opportunity to respond to your draft report entitled "The Internal Revenue Service Needs to Improve Compliance with Legal and Internal Guidelines When Taking Taxpayers' Property for Unpaid Tax." Your draft report is a review of all seizures (124) conducted from July 22, 1998, through January 31, 1999, by the Internal Revenue Service's (IRS) Collection Field function. This timeframe coincides with the enactment and implementation of the IRS Restructuring and Reform Act of 1998 (RRA 98); a time when many new and revised procedures were implemented. We believe the seizure and sale program is an integral part of our overall compliance program and take your findings and recommendations very seriously. We will use the findings and recommendations to complement our efforts to continuously improve our procedures.

As our respective staffs' discussed, we believe the report confirms that the majority of seizures were conducted when appropriate. The exception issues that the Treasury Inspector General for Tax Administration (TIGTA) identified occurred in a minimal number of cases, and most of the exception issues identified were administrative errors, as opposed to actual rights violations.

Because we take error seriously, I believe that the findings must be looked at from the perspective of how the IRS is striving to eliminate such errors in the future. Your findings show that approximately 70 percent of the errors that occurred in the RRA 98 legal exception cases occurred within the first 4 months of the date of enactment of the law. Without question, this was a time of significant change and transition because of the need to establish and provide the needed procedural and legal guidance and training to implement the many changes mandated by the new legislation.

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We will take whatever steps are necessary to eliminate mistakes in this very important area in the future. In some exception issues there is a need to involve Counsel to clarify points where we do not have the same interpretation of the legal requirements. For example, we are allowed to, and in some cases required to provide the taxpayer with the name of the successful bidder at sales. Also, in some cases we need to clarify the definition of adequate investigation and equity in assets, and we need to determine what constitutes adequate notice in the case of business corporations.

In that light, we are assembling a team to do a complete review of the 124 cases in your review. This team will be comprised of staff from Collection, Chief Counsel, and the National Taxpayer Advocate's office. We will review to see if any taxpayers were harmed, and if so, restitution should be made.

When the review is completed we would like to meet with you to clarify, and reach agreement on, what is or is not a legal or procedural violation. We feel it is vital to establish an agreed standard, so we can take all the steps necessary to prevent future errors.

Our preliminary review of the exception cases revealed that while many actions were properly taken, the case files did not document that fact. For instance, we found that Publication 1, Your Rights as a Taxpayer, was being provided but this was not documented. We, therefore, have increased our emphasis on proper case documentation and we believe the use of checklists will help resolve the documentation problems identified.

The process of seizure and sale is among the most complex of Collection's procedures. In April 1999, Collection issued the Seizure and Sale Handbook providing field employees with definitive procedures regarding use of seizure in conformance with RRA 98 provisions. The complexity of these procedures is evidenced by the more than 50 major actions set forth in seven chapters. Subsequent to the 124 seizures that were the subject of this review, several major improvements have been made to the program. These changes include the development and issuance of the previously mentioned handbook, as well as the development of a pre-seizure and approval checklist incorporating the procedural and legal requirements necessary prior to conducting a seizure and sale. To supplement the existing checklist, we are developing additional checklists that will include legal and Internal Revenue Manual (IRM) guidelines that must be followed during the conduct of seizures and actions that must be taken after seizures are made.

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Finally, while I understand that RRA 1998 requires the TIGTA to annually evaluate the IRS' compliance with the required procedures in the Internal Revenue Code (IRC) sections 6330 through 6344 for seizure of property for collection of taxes, I am concerned about the limited scope of this review. In the executive summary, the stated objective of the review was to assess compliance with legislative and procedural requirements and not to determine whether seizure was the appropriate collection action to take. I believe the intent of RRA 1998 was to strive to achieve fairness for all taxpayers. This includes the requirement that enforcement actions be conducted when appropriate. As such, I suggest that future audits include a sample of non-seizure cases, as well as seizure cases, to determine whether seizures are being conducted when appropriate.

Our comments on the specific recommendations in this report are as follows:

IDENTITY OF RECOMMENDATION #1

Complete the seizure and post-seizure checklists that are being developed and ensure that pertinent 26 U.S.C. § 6330 through § 6344 (1986) and IRM seizure requirements are included.

ASSESSMENT OF CAUSE(S)

In the 124 Collection seizures (involving 92 taxpayers) conducted by the IRS during a 6-month period beginning July 22, 1998, for compliance with the 26 U.S.C. (1986) and IRS procedures, the Treasury Inspector General for Tax Administration found that in 64 percent of the 92 taxpayers cases Collection properly exercised its seizure authority. In 33 cases TIGTA found that Collection did not follow all legal and or procedural guidelines. The Internal Revenue Service Restructuring and Reform Act of 1998 mandates the establishment of a uniform asset disposal mechanism by July 22, 2000, which will impact the development of these checklists.

CORRECTIVE ACTIONS

We expect to have the disposal mechanism and complete the development and implement the seizure and post-seizure checklists by the implementation date.

IMPLEMENTATION DATE:

PROPOSED — July 22, 2000

RESPONSIBLE OFFICIAL(S)

Assistant Commissioner (Collection)

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CORRECTIVE ACTION(S) MONITORING PLAN

Compare the results of the exception issues identified in the current TIGTA report, relating to Collection's seizure and sale (for seizures dated after the distribution of the Seizure and Sale Handbook), to the issues identified in subsequent year's report to determine the effectiveness of the checklists and their impact on conformance to legal and/or procedural guidelines.

IDENTITY OF RECOMMENDATION #2

Use memoranda, training sessions, group meetings, etc., to emphasize that IRS employees use the appropriate checklists for all seizures conducted.

ASSESSMENT OF CAUSE(S)

TIGTA found that the use of the pre-seizure checklist is an excellent tool; however, it only addresses pre-seizure actions. Four of the legal provisions identified as exceptions were not included in the pre-seizure checklist.

CORRECTIVE ACTIONS

Additional checklists for actions during the seizure and after the seizure are being developed; however, the implementation of a uniform asset disposal mechanism, as required to be implemented by July 22, 2000, by section 3443 of RRA 98, impacts development of these additional checklists. Collection and Counsel will develop these checklists before the implementation date of the uniform asset disposal mechanism.

IMPLEMENTATION DATE:

PROPOSED – July 22, 2000

RESPONSIBLE OFFICIAL(S)

Assistant Commissioner (Collection)

CORRECTIVE ACTION(S) MONITORING PLAN

Compare the results of the exception issues identified in the current TIGTA report, relating to Collection's seizure and sale (for seizures dated after the distribution of the Seizure and Sale Handbook), to the issues identified in subsequent year's report to determine the effectiveness of the checklists and their impact on conformance to legal and/or procedural guidelines.

IDENTITY OF RECOMMENDATION #3

Ensure that IRS Collection management and other appropriate management officials verify that all applicable items on the Pre-Seizure Checklist are completed prior to approving the seizure and that all applicable items in the seizure and post-seizure checklists, under development, are completed.

The Internal Revenue Service Needs to Improve Compliance with Legal and Internal Guidelines When Taking Taxpayers' Property for Unpaid Taxes

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ASSESSMENT OF CAUSE(S)

In the 33 seizure cases where legal and internal guideline exception issues were found, the pre-seizure checklist addressed the issues, and in 4 of the 33 cases, the legal provisions identified as exceptions were not included in the pre-seizure checklist. The pre-seizure checklist was mandated to be used in the Seizure and Sale Handbook which was issued after the review was conducted.

CORRECTIVE ACTIONS:

3a) The seizure and sale handbook will incorporate the seizure and post seizure checklists into mandated procedural guidelines. The 3 checklists will be required to be completed by the appropriate employees.

3b) Internal guidelines will state that seizures will not be approved and seizure cases will not be closed until the appropriate checklists are completed and reviewed by the appropriate official.

3c) Training will address the use of the pre-seizure, seizure, and post-seizure checklists.

3d) Collection will address non-conformance exception issues found in the annual review report of seizure cases, conducted by TIGTA.

IMPLEMENTATION DATES:

3a) PROPOSED -- July 22, 2000

3b) PROPOSED -- July 22, 2000

3c) PROPOSED -- July 22, 2000

3d) Upon availability of the annual review report of seizure cases, conducted by Treasury Inspector General for Tax Administration.

RESPONSIBLE OFFICIAL(S)

3a); 3b); and 3d) Assistant Commissioner (Collection)

3c) Assistant Commissioner (Collection) and National Director, Learning and Education.

CORRECTIVE ACTION(S) MONITORING PLAN

Compare the results of the exception issues identified in the current TIGTA report, relating to Collection's seizure and sale (for seizures dated after the distribution of the Seizure and Sale Handbook), to the issues identified in subsequent year's report to determine the effectiveness of the checklists and their impact on conformance to legal and/or procedural guidelines.

IDENTITY OF RECOMMENDATION #4

Determine from a legal standpoint what steps should be taken regarding any money received as a direct result of conducting seizures without following the provisions in 26 U.S.C. sections 6330 through 6344 (1986).

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ASSESSMENT OF CAUSE(S)

As identified in the report, TIGTA found that 33 seizure and sale cases did not follow all legal and or procedural guidelines. Some cases may be applicable to restitution under IRC section 6343(d) or if reckless, intentional, or a negligent action was found to be taken by an employee of the IRS, the taxpayer may bring a civil action for damages against the United States in a district court under IRC section 7433.

CORRECTIVE ACTIONS

- 4a) Identify seizure cases applicable to the above stated code sections by conducting a case-by-case review of the individual case files.
- 4b) The Assistant Commissioner (Collection) will conduct reviews of the cases identified by convening case review teams composed of local staff from the National Taxpayer Advocate, District Counsel, and Collection within the guidelines of the code sections identified.
- 4c) Determine if the return of the money received, as a result of seizure action, would be the appropriate action to take.

IMPLEMENTATION DATES:

- 4a) PROPOSED -- March 31, 2000
- 4b) PROPOSED -- June 30, 2000
- 4c) PROPOSED -- August 31, 2000

RESPONSIBLE OFFICIAL(S)

- 4a) Assistant Commissioner (Collection)
- 4b) Assistant Commissioner (Collection), Chief Counsel, and the National Taxpayer Advocate
- 4c) Assistant Commissioner (Collection), Chief Counsel, and the National Taxpayer Advocate

CORRECTIVE ACTION(S) MONITORING PLAN

The results of these case reviews, including any case defects and any recommended actions, will be provided to the Assistant Commissioner (Collection). These results will be shared with Chief Counsel and the National Taxpayer Advocate.

If you have any questions or need additional information, please call me, or a member of your staff may contact Kyle Ballew at 622-4943.